U.S. DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE IMMIGRATION JUDGE
Detroit, Michigan

File A29437881 August 28, 1991

In the Matter of

DANIELA CHESLEREAN, IN DEPORTATION
Respondent Proceedings

CHARGE: I&N Act - Section 241(a)(2) Non-Immigrant Visitor - remain longer

APPLICATIONS: I & N Act - Section 208 Asylum, and/or withholding of deportation under Section 243(h), or in the alternative Voluntary Departure.

IN BEHALF OF RESPONDENT:
Richard A. Kulics, Esq.
401 S. Woodward - Ste 370
Birmingham, Michigan 48009

IN BEHALF OF SERVICE:
Michael Dobson, Esq.
Trial Attorney
Detroit, Michigan 48207

ORAL DECISION OF THE IMMIGRATION JUDGE

The Respondent is a 31-year old, married female. She admitted through Counsel that she is not a citizen or national of the United States, but is a native and citizen of Romania, who entered the United States in

Chicago, Illinois, on or about April, 15, 1989, when she was admitted as a visitor for pleasure, authorized to remain in the United States until October 15, 1989. She further admitted through Counsel that on April 27, 1989, she filed a Request for Asylum in the United States and at that (sic) her Request for Asylum was denied october 18, 1990. Lastly, she conceded through Counsel that she has remained in the United States beyond October 15, 1989 without Service permission and that she is subject to deportation on the above mentioned charge. Based on the foregoing, I find that deportability has been established by clear, convincing, and unequivocal evidence.

Respondent declined to designate a country to which her deportation should be directed if required by law. She was advised that her deportation if required, would be directed to Romania, the country of which she is a native and citizen. She thereuon

submitted an Application for Asylum (Group Exhibit 2).

An asylum request made after the institution of deportation proceedings, is also considered a request of withholding of deportation pursuant to Section 243(h) under the Immigration and Nationality Act, as amended (hereinafter referred to as "The Act"). 8 C.F.R. 208.3(b).

An applicant for withholding of deportation or asylum bears the evidentiary burdens of proof and persuasion in connection with any application under Section 243(h) or Section 208 of The Act. Matter of Acosta, 19 I&N Dec. 211 (BIA 1985), modified, Matter of Acosta and Matter of Mogharrabi, 19 I&N Dec. 439. The applicant must establish the facts underlying

his claim for such relief by a preponderance of credible, probative evidence, He must also establish that the facts proven satisfy

the stutory standards of eligibility for these forms of relief. Id.

To be eligible for withholding of deportation pursuant to Section 243(h) of the Act, the facts shown by the alien must demonstrate a clear probability of persecution in the country designated for deportation, on account of race, religion, nationality, membership in a particular social group or political opinion. INS v. Stevic, 467 U.S. 407 (1984). This means that the alien's facts must establish that is more likely than not that he would be subject to perscution for one of the grounds specified. Id.

To be eligible for asylum under Section 208 of The Act, the alien must meet the definition of a "refugee", which requires him to show persecution or a well-founded fear of persecution in a particular country on account of race, religion, nationality, membership in a particular social group, or

political opinion. Section 101(a)(42)(A) of The Act; Aection 208 of The Act. The burden of proof required to establish eligibility for asylum is lower than that required for withholding of deportation. INS v. Cardoza-Fonseca, 480 U.S. 421 (1987). The applicant for asylum must establish a well founded fear if he shows that a reasonable person in the

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circumstances would fear persecution for one of the five grounds specified in The Act. Matter of Mogharrabi, supra.

The Respondent bases her claim of a fear of persecution by the Romanian authorities should she return to there on the following facts. Respondent claims that she has been selected, singled out, and humiliated by the Romanian government because of former contacts with the West which her father had. The Respondent stated that her father was a high-ranking member of the romanian army and that he was discharged from the romanian army

in 1975 because he had friends who were from Germany. Respondent claims that her father died, October 5, 1980, after both he and her mother were struck by an automobile driven by an individual. Respondent claims that her mother subsequently sought to prosecute this individual but nothing ever came of it. Rhe Respondent believes that this was a plot by theTomanian officials, that is, the death of her father was part of a plot to kill him because of his association with members of the Western community. Respondent claims that after graduating with a degree in Economics, in June, 1984, she secured a position with the Electrical Devices Company in Romania in September, october, 1984 as an economist. She stated that she was demoted about April 1988 from her position as economist to accountant and that she was paid less money at the same company and at the same location. She stated that her husband was also demoted at the same time and

transferred to another location. Respondent attributes this to her being her father's daughter. The Respondent also claims that her mother subsequently departed Romania in November 1987 and immigrated to the United States where she married a United States citizen in December, 1987. She claims that several times after her mother departed, police appeared at her home, searched her home for western currency and other western materials and questioned her as to why her mother had departed Romania. Respondent stated that subsequently, a friend told (sic) that her she ought to leave the United States (sic) or the same thing that happened to her father would happen to her. She claims that her friends from Germany gave both her and her husband five thousand dollars each in American money with which she purchased a passport to depart romania and come to the United States in April of 1989. She states

that she departed about a month before her husband and that she was accompanied by her child.

While the Respondent may honestly believe her version of events, I find that they are pure speculation on her part. There is no corroborating evidence, whatsoever, to substantiate her version of events. Furthermore, even if the events are as she said, I would find that there is no persecution within the meaning of Section 208 of 243(h) of The Act.

Therefore, having carefully considered the evidence in this case, including the testimony of the Respondent, I find

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that the Respondent has failed to establish her burdens of proof and persuasion in her application for asylum. She has, therefore, necessarily failed to establish the strict and clear or (sic) probability of persecution standard required for withholding of

deportation. Accordingly, her application for such relief will be denied.

The Respondent has applied,in the alternative, for the privilege of voluntary departure, and she will be granted this relief as a matter of discretion.

ORDER

IT IS ORDERED that in lieu of deportation, the Respondent be granted volunary departure without expense to the Government, on or before October 28, 1991, or any extension beyond that date that may be granted by the District director for the Immigration and Naturalization Service. And, under such conditions as the district Director may direct.

IT IS FURTHER ORDERED that if the Respondent fails to depart, when and as required, the privilege of voluntary departure shall be withdrawn without further notice or proceedings and the following order shall hereupon become immediately

effective: that the Respondent will be deported from the United States to romania on the charge contained in the Orderto Show Cause.

IT IS FURTHER ORDERED, that the Respondent's application for asylum and/or withholding of deportation under Section 243 (h) of The Act be denied.

/s/
Anthony D. Petrone, Jr.
Immigration Judge